

Advisory Opinion

IECDB AO 2004-17

October 21, 2004

Therese M. Vaughan
Iowa Insurance Commissioner
Iowa Insurance Division
Department of Commerce
330 Maple Street
Des Moines, Iowa 50319-0065

Dear Commissioner Vaughan:

This opinion is in response to your email of October 11, 2004, requesting an opinion from the Iowa Ethics and Campaign Disclosure Board. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B and rules in Iowa Administrative Code chapter 351.

FACTUAL STATEMENT:

We understand you request this opinion in your capacity as the Iowa Insurance Commissioner. You advise us that prior to serving as the Insurance Commissioner, you were on the faculty of Drake University and taught courses on insurance and actuarial science.

You also advise us that many academic positions are funded in whole or part by insurance industry funds. Typically, an insurance company or an insurance executive contributes money to fund an academic position. This position may be named after the company or individual. However, usually the university or college makes the decision on who is to occupy the position and the contributor has no control over the expenditure of the funds to the position.

You would like to return to an academic position after your service as the Insurance Commissioner.

QUESTION:

Is it permissible for you to accept an academic position funded in whole or part by an insurance company or insurance executive after you leave service as the Iowa Insurance Commissioner?

OPINION:

After reviewing Iowa Code chapter 68B and the rules in 351—Chapter 6, there is no provision that would automatically prohibit you as the Insurance Commissioner from leaving state government and accepting an academic position funded by the insurance industry. Rather, depending upon certain activities there are two sections that could potentially impact your ability to accept such employment within two years of leaving state government.

We presume that an academic position would not trigger Iowa Code section 68B.5A (ban on certain lobbying activities). If you believe that this presumption is incorrect, or if you plan on engaging in lobbying activities within two years of leaving state government, please notify us and we will issue you an additional opinion.

Iowa Code section 68B.7 states that you shall not within two years of leaving state government: “appear before the agency or receive compensation for any services rendered on behalf of any person, firm, corporation, or association in relation to any case, proceeding, or application with respect to which the person was directly concerned and personally participated during the period of service or employment.”

Therefore, so long as in your capacity as the Insurance Commissioner you do not make an agreement with an insurance company or an insurance executive that you will take certain action in relation to a case, proceeding, or application in return for help in receiving an academic position that the company or executive funds, this section would not prohibit you from accepting such a position.¹

Absent the caveats set out in this opinion, nothing would prohibit you from accepting an academic position funded by the insurance industry after leaving state service.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

¹ The procedural safeguard that you mention concerning the fact that most universities and colleges make the decision on who receives an academic position without input from the person who funds the position helps reduce the concern of “influence peddling” that section 68B.7 seeks to prohibit.